

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

[www.montgomerycountymd.gov/content/council/boa/board.asp](http://www.montgomerycountymd.gov/content/council/boa/board.asp)

**Case No. S-2703**

**PETITION OF BIJAN MASHAYEKHI**

OPINION OF THE BOARD

(Opinion Adopted September 19, 2007)

(Effective Date of Opinion: September 27, 2007)

Case No. S-2703 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, for an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on August 27, 2007, closed the record in the case on September 4, 2007, and on September 6, 2007 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 7, Block E, located at 5812 Greenlawn Drive, Bethesda, Maryland, 20814, in the R-60 Zone.

Decision of the Board:      Special Exception **Granted**, Subject  
To Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on September 19, 2007. After careful consideration and review of the record in the case, on a motion by Catherine G. Titus, seconded by Wendell M. Holloway, with Donna L. Barron, Vice-Chair, Caryn L. Hines and Allison Ishihara Fultz, Chair in agreement, the Board adopts the Report and Recommendation and **grants** the special exception subject to the following conditions:

1. The Petitioner is bound by his testimony, representations and exhibits of record, to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and in this Opinion;
2. The Petitioner will take the following steps to comply with the conditions set forth in the August 21, 2007 Memorandum of Unray Peters, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14):
  - a. A guard rail must be installed to entrance stairway to accessory unit.

- b. The observed water leak must be repaired to kitchen sink.
  - c. A window that meets code standards must be installed for emergency egress (5 foot net clear opening. Must be openable without the use of a tool with a minimum net clear opening height of 24 inches and a minimum net clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor).
  - d. Hard wired interconnected smoke detectors must be installed inside the garage and the accessory apartment.
- 3. Based on habitable space in the apartment (770 square feet), no more than two unrelated persons, or a family of up to four, may reside in the accessory apartment;
  - 4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
  - 5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
  - 6. Petitioner must make at least two of the parking spaces on his property available to the accessory apartment tenant; and
  - 7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

---

Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 27<sup>th</sup> day of September, 2007.

---

Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.